United Nations ST/IC/2005/37

Secretariat

26 July 2005

Information circular*

To: Members of the staff at Headquarters

From: The Assistant Secretary-General for Human Resources Management

Subject: **Employment of household employees for whom a G-5 visa has been requested or obtained**

1. The Secretary-General has received from the Permanent Mission of the United States of America to the United Nations a note verbale dated 1 November 2004 replacing its note verbale of 9 July 2004 in which it informs the Secretariat of the requirements concerning the employment of personal servants, attendants and domestic workers who are in the United States, or plan to come to the United States, in non-immigrant G-5 visa status.

2. The text of the note verbale is set out in the annex to the present circular. Attached to the note verbale is a copy of an information sheet (appendix 2), which will be provided to personal servants, attendants and domestic workers when obtaining their G-5 visa.

3. The prevailing hourly wage amount contained in appendix 2 reflects the amount reported in ST/IC/2005/34.

4. The present circular supersedes information circular ST/IC/2004/45 of 15 September 2004.

* The present circular will be in effect until further notice.

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Annex

Note verbale dated 1 November 2004 from the Permanent Mission of the United States of America to the United Nations addressed to the Secretary-General

The United States Mission to the United Nations presents its compliments to the United Nations Secretariat and has the honor to refer to its circular diplomatic note HC-04-00 of February 18, 2000, concerning the employment of personal servants, attendants, and domestic workers who are in the United States, or plan to come to the United States, in non-immigrant G-5 visa status. The present note replaces the United States Mission's note HC-83(S)-04 of 9 July 2004.

The United States Mission wishes to inform the United Nations Secretariat and related agencies regarding the requirements for the employment of domestic employees. Every prospective employer (United Nations Secretariat and/or related agencies staff member) is required to offer a written contract of employment to the domestic employee. The contract must be in English and, if the domestic employee does not understand English, in a second language that he or she understands. Two copies of the contract should be signed by both parties with one for the employer and one for the domestic employee.

A domestic employee applying for a G-5 visa to enter the United States must provide a copy of the signed contract with his or her visa application. Staff members of the United Nations Secretariat and/or related agencies who wish to hire domestic employees who are already in the United States on G-5 visas are also required to offer a written contract of employment. Further, when a request for an extension of stay for a G-5 visa is made, a copy of the current and/or revised contract should accompany the request sent to the United States Mission.

The employment contract is required to assist the employer and the employee in establishing a good faith employment relationship. Both parties to the contract are expected to carry out the terms of the contract. The contract should include the following:

--**Description of duties.** The contract should describe the work to be performed, for example, housekeeping, cooking, health and/or childcare, and must also include a statement that the domestic employee shall work only for the employer who signed the contract.

--**Hours of work.** The contract should state the normal working hours and number of hours per week. It is generally expected that a minimum of 35 to 40 hours per week of paid employment will be provided. It should also state that the domestic employee will be provided a minimum of at least one full day off each week. The contract should also indicate whether the domestic employee will be provided paid holidays, sick days and vacation days.

--**Minimum or prevailing wage.** The contract shall state the hourly wage to be paid the domestic employee, provided that the rate will be the greater of the minimum wage under federal and state law or the prevailing wage for all working hours. The contract should state that wages will be paid to the domestic employee either on a weekly or biweekly basis and state what deductions are to be taken from

wages. If any deduction is taken for meals or lodging, it must be no more than is reasonable.

--**Transportation to and from the United States.** The contract should state that the domestic employee will be provided with transportation to and from the United States.

--**Other terms of employment.** The contract must include a statement that the passport, visa, copy of the contract and other personal property of the domestic employee will not be withheld by the staff member of the United Nations Secretariat and/or related United Nations agencies for any reason. Further, it should include a statement that the domestic employee's presence in the residence of the staff member of the United Nations Secretariat and/or related United Nations agencies will not be required except during working hours. The contract may state other agreed upon terms of employment, if any, provided they are fully consistent with United States law. Any modification to the contract must be in writing.

--**Tax payments.** All United Nations employees, except those in diplomatic status in accordance with article V, section 19 of the Convention on the Privileges and Immunities of the United Nations, must obtain social security cards for their domestic employees and pay the employer's share of social security taxes and Medicare and any other required taxes or contributions, including federal and state unemployment insurance and workers compensation insurance, on all wages actually paid, which shall not be less than the applicable minimum or prevailing wage. The contract shall also state that, unless paid by the United Nations employee, the domestic employee must pay applicable federal and state income taxes on all wages and the employee's share of social security. Domestic employees from countries with which the United States has totalization/social security agreements may not be required to participate in the United States Social Security program. A list of those countries appears in an appendix to this note (appendix 1).

--**Record keeping.** To avoid possible misunderstanding, the employer will maintain for the duration of actual employment plus three years, the following records: 1) the employee's full name, date and place of birth, gender and occupation; 2) the employee's home address and telephone number in the United States; 3) a record of the number of hours worked daily and weekly; and 4) a copy of a check or dated receipt covering each pay period, including a record of any deduction made.

The United States Mission also wishes to remind staff members of the United Nations Secretariat and/or related United Nations agencies that all personal employees must be notified to their respective executive offices upon arrival and upon departure (including abandonment) of employment, or transfer to a new employer. Note: a G-5 domestic employee may not work for more than one household contemporaneously.

If an employer seeks to replace an employee or add to his or her existing domestic staff, the G-5 visa may be denied if there is reason to believe that the employer failed to fulfil his or her obligations to a former or current employee, such as to pay a fair wage. Domestic employees will be provided with a copy of the enclosed information sheet when obtaining their visas. The information sheet informs them in general terms of their customary and legal rights while in the

United States and also provides a complaint number, 1-888-428-7581, in the event the domestic employee believes his or her rights are not being observed.

The United States Mission to the United Nations avails itself of this opportunity to renew to the United Nations Secretariat and related agencies the assurances of its highest consideration.

Appendix I

States which have entered into totalization agreements with the United States of America as at October 2004

Australia
Austria
Belgium
Canada
Chile
Finland
France
Germany
Greece
Ireland
Italy
Luxembourg
Netherlands
Norway
Portugal
Republic of Korea
Spain
Sweden
Switzerland
United Kingdom of Great Britain and Northern Ireland

Appendix 2

Message from the Government of the United States of America

To recipients of A-3 and G-5 visas:

You have received an A-3 or G-5 visa as an attendant or personal employee of an official or other employee of a diplomatic or consular mission or international organization.

You and your employer have a written employment contract, which is considered by the United States to be a true statement of your terms of employment. Among the terms of the contract are the following:

- **This contract provides for you to be paid at least the minimum or prevailing wage, whichever is greater, for every hour you work. The prevailing wage in the New York metropolitan area is currently approximately $9.86 an hour.**[a]
- **When not working, you cannot be required by your employer to remain in your employer's home or at your place of employment.**
- **Your passport must always be available to you.**

Employers should honor all provisions of the contract, including provisions for days off and regular payment. You should keep a copy of this contract.

When you are in the United States, you should be treated fairly and lawfully. If you are to live in the house of your employer, you should be provided with living and working conditions that are within the prevailing standards of the United States.

The laws of the United States and the individual states may give you additional rights, including protection from abuse, that may not have been written in the contract that you signed. These rights are yours and cannot be denied to you for any reason.

If, after you have arrived in the United States, you believe that these rights are not being observed, you may seek assistance by calling 1-888-428-7581. For assistance 24 hours a day, you may call 1-888-373-7888.

You may wish to keep this message with your passport or with your other important documents (such as your employment contract) while you are in the United States.

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[a] This amount corresponds to the applicable prevailing hourly wage announced in ST/IC/2005/34.